IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)
THURSDAY, THE FIFTEENTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 2006 of 2004

Between:

Nama Bhoomaiah, s/o Late N. Hanmandloo,
R/o H.No. 5-4-125, New Abadi,

Yellareddy Villagte & Mandal,

Nizamabad District, A.P. Pin - 503 122.

..... PETITIONER

AND

1 The District Collector (Panchayat), Nizamabad, A.P.
2 The Gram Panchayat, Yellareddy,

rep. by its Secretary, Grama Sachivalayam,
Yellareddy (V&M), Nizamabad District Pin: 503 122.
3 The Station House Officer,

P.S. Yellareddy,

Nizamabad District Pin: 503 122.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ or direction preferably writ of mandamus declaring that action of the 2nd respondent in not granting permission even though I have applied for the same on 16-2-2002 and not allowing me to proceed with the construction is illegal, arbitrary and violative of principles of natural justice and consequently declare the that I am entitled to proceed with the construction as per the plan submitted on 16-2-2002 and further direct the respondents not to interfere with my construction over the premises bearing House Nos. 5-4-120 and 5-5-2 and 3 situated at New Abadi, Yellareddy Village and Mandal, Nizamabad and also direct the 2nd respondent to pay compensation and damages for not granting permission in time as per the citizens

charter Circular of District Collector (PTS) Circular No. 716, dt. 19-9-2002 (Poura Haccula Chattam) and pass such other order or further orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.KOWTURU VINAYA KUMAR

Counsel for the Respondents: GP FOR PANCHAYAT RAJ & RURAL DEV.

The Court made the following :

ORDER:

Petitioner made an application to the second respondent-Gram Panchayat for granting permission to construct the shops in Plot No. 7 and 8 total admeasuring 1100 sq. yards situated at New Abadi Yellareddy, Nizamabad District on 16-2-2002 and states that after expiry of two months' period, under the deemed provision he wants to make the construction and accordingly he sent notices to the first and second respondents. Though the said notices were received by the first and second respondents and as there was no reply, petitioner started construction in the month of August, 2002. While the construction was in progress, the second respondent interfered and not allowed the petitioner to proceed with the construction, which is arbitrary and illegal.

In response to rule nisi, second respondent-Gram Panchayat filed a counter affidavit stating that on receipt of the application dated 16-02-2002, the same was placed in the public notice for calling objections and thereafter, the Gram Panchayat by notice dated 05-03-2002 called upon the petitioner to pay the application fee and scrutiny fee of Rs.9088/- as per the building rules under A.P.Panchayat Raj Act. Petitioner neither paid the fee nor given any reply. After a lapse of two months', he issued a notice on 03-06-2002 stating that he is proceeding with the construction, which was suitably replied by the second respondent on 14-06-2002 calling upon the petitioner to pay the amount as per the building rules and also stating that if he fails to pay the said amount, the application will be rejected. Petitioner without paying the said amount proceeded to make construction, under the garb of "deemed provision", which he is not entitled to.

Learned counsel for the petitioner submits that second respondent-Gram Panchayat neither granted the permission nor denied the entitlement of the petitioner to obtain permission, but only demanded amount for which petitioner is ready to pay and

therefore the Gram Panchayat may be directed to release the sanction and approve the plan.

Having regard to the facts and circumstances of the case, the writ petition is disposed of directing the petitioner to pay the amount demanded by the Gram Panchayat within two weeks from today and thereafter, the Gram Panchayat shall consider his application and pass necessary orders within three weeks from the date of such deposit and intimate the action taken thereon to the petitioner. Till such time, status-quo with regard to the construction shall be maintained by either of the parties.

The writ petition is accordingly disposed of. No costs.

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15-07-2004

vs/Murthy

To

1 The District Collector (Panchayat), Nizamabad, A.P.

2 The Secretary ,Gram Panchayat, Yellareddy,

Grama Sachivalayam,
Yellareddy (V&M), Nizamabad District Pin: 503 122.

3 The Station House Officer,

P.S. Yellareddy,

Nizamabad District Pin: 503 122.

4 Two CCs to the GP for Panchayat Raj & Rural Dev, High Court Buildings, Hyderabad.(O.U.T).

5 Two CD copies.

THE HON'BLE MR JUSTICE A.GOPAL REDDY

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Dated: 15-07-2004

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